



CITY COUNCIL ADDENDUM

Tuesday, January 7, 2013

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1. Additional Information for the January 7, 2013, Council Meeting



City Council Addendum

1.

Meeting Date: 01/07/2013

SUBJECT: Council Addendum Information

Attachments

Attachment



TO: Mayor and City Councilmembers
FROM: Steve Gatlin, City Manager
SUBJECT: Council Addendum–January 7, 2013
DATE: January 7, 2013

15. Bunker Hills Practice Range/Learning Center:

- a. Cons. Resolution No.13-23 Accepting Preliminary Plans and Cost Estimates and Authorize Project Budget for New Driving Range/Practice Green, Short-Game Facility and Learning Center Building**
b. Approve Lease Agreement with golfTEC for Operation of Golf Instruction Learning Center at Bunker Hills

Below are the highlights of the Lease Agreement between City of Coon Rapids and GTMN Partners, LLC (GolfTEC). The Agreement is also attached.

- 5 year lease from April 15, 2013 to September 30, 2018 with option for additional 5 year term.
- GolfTEC will occupy Learning Center and pay an initial rent of \$500/month which increases incrementally to \$1500/month during initial term of lease.
- Golf TEC will contribute towards utilities expenses.
- GolfTEC will pay portion of property tax generated by Agreement (up to \$4800/per year).
- City will receive 5% of all golf lessons given by GolfTEC at Bunker Hills.
- City will receive revenue from golf clubs sales.
- GolfTEC will hold at least one client event at Bunker Hills.
- GolfTEC and Bunker Hills will promote each other in marketing on websites, in print, signage, golf expos, etc.
- City has option to terminate lease if bid prices are 25% percent greater than current estimates to build Learning Center building and/or driving range renovation.

16. Cons. Resolution 13-24 Providing for the Sale of General Obligation Improvement and Refunding Bonds, Series 2013A Subject to Certain Parameters; Delegation to Pricing Committee

Should the City Council move forward with Item 15, **Bunker Hills Practice Range/Learning Center**, staff is asking the Council consider Resolution 13-24A. The revised resolution includes a higher amount for bonds for the golf course should interest rates be good.

GOLF INSTRUCTION PROVIDER AGREEMENT

This **GOLF INSTRUCTION PROVIDER AGREEMENT** (the "**Agreement**") is made this ____ day of _____, 2013, by and between the **City of Coon Rapids, a municipal corporation**, ("**City**") and **GTMN Partners, LLC** of 12450 E. Arapahoe Road, Suite B, Centennial, Colorado 80112 ("**GTMN**"). City and GTMN may hereinafter be jointly referred to as the "**Parties**".

RECITALS

WHEREAS, City desires to retain the services of GTMN, a GolfTEC franchisee, to become the exclusive provider of golf instruction, training, custom club fitting and related services (as agreed to by City) at Bunker Hills Golf Course at 12800 Bunker Prairie Drive, Coon Rapids, Minnesota 55448 ("Bunker Hills"); and

WHEREAS, GTMN desires to provide said services to City at Bunker Hills and rent space from City at Bunker Hills.

NOW, THEREFORE, for and in consideration of the mutual promises set forth hereinafter and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Temporary Building.**

(a) Beginning on April 15, 2013 ("**Effective Date**") City will rent to GTMN one (1) golf simulator in Bunker Hills' banquet room ("**Temporary Bay**"). GTMN will use the Temporary Bay for approximately 90 days until the permanent building is completed (the "**Academy Building**"). The Parties agree that the target date to open the Academy Building is July 15, 2013.

(b) GTMN will temporarily install technology and furniture sufficient in Temporary Bay to provide professional GolfTEC-quality golf instruction.

(c) City will provide GTMN with sufficient lighting, an internet connection and other reasonable temporary modifications and services to support GTMN's execution of golf instruction in the Temporary Bay.

2. **Academy Building.**

(a) **Design and Construction.** City will erect the Academy Building at City's expense, which will be approximately 1,350 square feet as more particularly described on "**Exhibit A**" attached hereto. The Academy Building will be configured to house a minimum of two standard GolfTEC hitting bays and a reception area. City and GTMN will mutually collaborate on the layout and design. The Parties agree that the interior improvements will include finishes consistent with GolfTEC's standard interior design and décor. It is intended that the forward wall in the two hitting bays will be a garage-type door that will open up onto Bunker Hills' driving range.

(b) **Furnishings.** GTMN shall provide and install, at GTMN's expense, the interior furnishings for the Academy Building to include reception area furniture, desks and chairs in each bay and all the technology and equipment required to operate a retail GolfTEC Improvement

(a) **Base Rent – Temporary Bay.** Beginning April 15, 2013, GTMN will pay City \$500 per month until GTMN relocates to the Academy Building (estimated July 15, 2013).

(b) **Base Rent – Academy Building.** Base Rent shall be payable by GTMN to City in monthly installments in advance on or before the fifth day of the month as follows:

(i) Beginning either July 15, 2013, or the date on which the Academy Building opens to the public for business until Bunker Hills' driving range is completed (estimated April 1, 2014): \$750 per month. (However, provided Academy Building is not open to the public for business by July 15, 2013, rent shall remain at \$500 per month until April 1, 2014)

(ii) Beginning either April 1, 2014, or the date on which Bunker Hills' driving range opens to the public for business until August 31, 2015: \$1,250 per month.

(iii) Beginning September 1, 2015 through September 30, 2018: \$1,500 per month.

(iv) If any date for change in the rent amount does not fall on the 1st of the month, the rent for that month should be pro-rated between the existing rent amount and the new rent amount.

(c) **Percent Rent.**

(i) Lessons Given. For the entire term of the Lease, GTMN will pay City five percent (5%) of sales from any and all lessons given at Bunker Hills, whether given indoors at the Temporary Building, Academy Building or at any of the outdoor areas at Bunker Hills. Sales from lessons given shall include clinics, camps (except Junior Camp), and other instructional events conducted at the Academy Building or at Bunker Hills for which GTMN charges a fee.

- a. GTMN will report and pay to City all revenue from the sales of lessons by the 10th day of the following month. City shall be allowed to audit the records of GTMN within one year of receipt of the report and payment.
- b. Junior Camp revenue will be transacted at Bunker Hills Golf Shop. The gross revenue will be split equally between City and GTMN. GTMN will provide at least one lead instructor for all junior camp sessions. All other junior camp instructional staffing will be provided by City (including the two PGA Class A Members employed by City and referred to in Section 2 (d) (vi).

(ii) Club Sales. Sales of clubs at Bunker Hills generated as a result of a club fitting service provided by GTMN or as a direct referral from GTMN will be processed through Bunker Hills' point-of-sale. City will pay to GTMN fifty percent (50%) of the markup on these club sales. City will report and pay to GTMN its fifty percent (50%) share of the markup on club sales by the 10th day of the following month. GTMN shall be allowed to audit the records of City within one year of receipt of the report and payment.

GTMN will escrow with the City by July 1 the following year's estimated real estate taxes. The escrow funds will be held by the City for the benefit of paying real estate taxes due in the year following termination of the Agreement. GTMN will pay to the City any net increase or the City will reimburse GTMN any decrease to maintain the escrow at the amount of the following year's tax estimate. This escrow will begin in 2014.

9. **Term.**

(a) **Initial Term.** The initial term of this Agreement, unless terminated as provided herein, shall commence on April 15, 2013 and shall continue through September 30, 2018.

(b) **Renewal.** This lease may be renewed upon the same terms and conditions (with the exception of base rent and other expenses including those not in the original term which shall be negotiated by the parties) for one (1) additional period of five (5) years upon the mutual written consent of the parties (each a "Renewal Term").

(c) Upon termination of this Agreement, whether by expiration of the term (and nonrenewal) or by early termination as provided herein, GTMN shall have the right to remove all the furnishings and equipment and other décor proprietary to the GolfTEC franchise.

10. **Marketing.** City shall promote GTMN's GolfTEC Center in any and all materials whenever possible including, but not limited to, website, newsletters, broadcast emails, on-site in all areas of the clubhouse, Point of Purchase (POP) displays, etc. GTMN and City will also collaborate to promote GTMN's lesson programs within the golf community such as golf expo, print advertising, etc. City will use good faith efforts to work with the Minnesota PGA and GTMN on programs and promotions for the mutual benefit of all involved.

11. **Signage.** GTMN shall provide and pay for the signage containing GolfTEC's logo and color scheme consistent with the style of Bunker Hills. GTMN shall secure outdoor signage on the Academy Building, Bunker Hills' clubhouse, at the driveway entering Bunker Hills, digital signage, directional signage or other signage as mutually agreed upon by the Parties.

12. **Default.** In addition to termination of this Agreement or any portion thereof by the expiration of any term, this Agreement or any portion thereof, may be terminated prior to its expiration:

(a) by City in the event GTMN breaches its obligation under this Agreement, including making any payments hereunder, City may terminate this Agreement if GTMN does not cure such default within seven (7) days after notice to GTMN thereof in writing. GTMN's ceasing to continuously operate at the Academy Building will not in and of itself be an event of default.

(b) by GTMN in the event City discontinues the operation of Bunker Hills for any reason whatsoever, or if City shall be in breach of any of its obligations stated in this Agreement, or if City does not maintain its facilities in a high-quality manner (including maintenance of the grounds, golf course, driving range, putting/chipping areas, quality of range balls, parking and public areas) GTMN may terminate this Agreement if City does not cure such default within seven (7) days after notice to City thereof in writing.

18. **Notice.** All notices, demands or other communications given or required to be given hereunder shall be in writing and given by personal delivery, electronic mail or overnight courier to City and GTMN at their addresses stated herein:

City of Coon Rapids
Attn: City Manager
11155 Robinson Drive NW
Coon Rapids, MN 55448-3761
763-767-6493
gatlin@coonrapidsmn.gov

cc: City Attorney
11155 Robinson Drive NW
Coon Rapids, MN 55448-3761
763-767-6495
dbrodie@coonrapidsmn.gov

GTMN Partners LLC.
Attn: Michael T. Clinton, Member
12450 E. Arapahoe Road, Suite B
Centennial, CO 80112
(303) 779-9900
mclinton@golftec.com

19. **Waiver.** No waiver of a violation of this Agreement shall constitute a waiver of this Agreement. Any failure or delay on the part of a party hereto to exercise any remedy under this Agreement shall not operate as a waiver. The failure of a party hereto to require performance of any of the terms, covenants or provisions of this Agreement by the other party hereto shall not constitute a waiver of any of the rights under this Agreement. No covenant or condition of this Agreement may be waived except by the written consent of the Parties hereto.

20. **Construction.** The Parties hereto acknowledge that this Agreement has been freely negotiated by them and the language used in this Agreement shall be deemed to be the language chosen by both of the Parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party hereto. The Parties hereto understand, agree and acknowledge that, in any controversy, dispute or contest over the meaning, interpretation, validity or enforceability of this Agreement or any of its terms or conditions, there shall be no inference, presumption or conclusion drawn whatsoever against any party hereto by virtue of that party or its agent having drafted this Agreement or any portion thereof.

21. **Attorney's Fees.** In the event of any default on the part of either party to this Agreement, in addition to all other remedies, the party in default shall pay the aggrieved party all amounts due and all damages, costs and expenses, including reasonable attorneys fees incurred by the aggrieved party in any legal action, arbitration or other proceeding as a result of such default, plus interest at the highest rate allowable by law, accruing from the date of such default.

22. **Independent Contractor.** Each Party to this Agreement is and shall be an independent contractor. Nothing in this Agreement will be construed to place the Parties in the relationship of a joint venture, employee/employer, partners, associates or principal and agent. Neither Party has any rights to encumber the other party in any manner not expressly granted herein.

Minnetonka). GTMN shall have the Exclusive rights to all instruction business conducted at Bunker Hills.

26. **Subletting or Assignment.** GTMN may assign its entire interest under this Agreement to any entity controlling or controlled by or under common control with GTMN, to any successor to GTMN by purchase, merger, consolidation or reorganization or to a qualified franchisee (hereinafter, collectively, referred to as "Permitted Transfer") without the consent of the City, provided (1) GTMN is not in default under this Agreement; (2) if such proposed transferee is a successor to GTMN by purchase, said proposed transferee shall acquire a majority of the stock or assets of GTMN's business; if such proposed transferee is a successor to GTMN by merger, consolidation or reorganization, the continuing or surviving corporation shall own a majority of the assets of GTMN; or if such proposed transferee is a qualified GolfTEC franchisee; (3) such proposed transferee operates the business in the Academy Building for the same services; (4) GTMN shall give City written notice at least thirty (30) days prior to the effective date of the proposed purchase, merger, consolidation or reorganization; and (5) that GTMN provides proof, prior to the completion of any purchase, merger, consolidation or reorganization or to a qualified franchisee that the "Assignee" maintains assets equal to or greater than the assets held by GTMN at the time of the execution of this Agreement, so that City has no greater financial risk as a result of a "Permitted Transfer" than it did on the date of the execution of the Agreement.

27. **Unexpected Cost.** Parties agree that the cost estimate to construct the Academy Building is \$307,235 and the cost estimate to reconstruct the driving range is \$594,192. Parties agree that if the actual bid price exceeds either or both of these estimates by twenty five percent (25%), City may, at its option, terminate this Agreement without penalty by giving written notice to GTMN. Parties agree this termination paragraph will only be effective until April 15, 2013.

IN WITNESS WHEREOF, GTMN and City, by their duly authorized officers, have executed this Agreement the day and year first above written:

GTMN Partners, LLC

CITY OF COON RAPIDS

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

By: _____

Name: _____

Title: _____

RESOLUTION NO. 13-24A

RESOLUTION PROVIDING FOR THE SALE OF GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2013A SUBJECT TO CERTAIN PARAMETERS; DELEGATION TO PRICING COMMITTEE

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Coon Rapids, Minnesota (the "City"), as follows:

1. It is hereby determined that:

(a) Pursuant to Minnesota Statutes, Section 429.091, the City is authorized to issue obligations in an amount deemed necessary to defray in whole or in part the expense incurred and estimated to be incurred in making improvements authorized by Minnesota Statutes, Chapters 429, as amended (the "Local Improvements Act"), and Minnesota Statutes, Chapter 475, as amended (the "Municipal Debt Act").

(b) Pursuant to the terms of Section 475.67 of the Municipal Debt Act, the City is authorized to issue bonds to refund outstanding obligations of the City and proposes to undertake the current refunding of the 2014 to 2018 maturities in the principal amount of \$2,305,000 of the General Obligation Water Revenue Bonds, Series 2003A (the "Prior Bonds"), issued in the original aggregate principal amount of \$6,150,000.

(c) Pursuant to the terms of Section 475.67 of the Municipal Debt Act and Laws of Minnesota, 1967, Chapter 33, the City is authorized to issue bonds to finance all or a portion of the cost of the acquisition, construction and equipping of improvements to the City's municipal golf course by the issuance of general obligation bonds of the City payable from the net revenues of the golf course.

(d) It is necessary and desirable that the City issue General Obligation Improvement and Refunding Bonds, Series 2013A (the "Bonds") in an amount not to exceed \$6,950,000 to refund in advance of maturity and at their redemption date, certain outstanding general obligations of the City and to finance the various improvements in the City and improvements to the City's municipal golf course; and

2. Ehlers & Associates, Inc., the City's financial advisor ("Ehlers"), is authorized and directed to structure the terms of the Bonds, subject to the parameters set forth below, and is further authorized to solicit proposals for the Bonds and negotiate the sale of the Bonds on behalf of the City. The City Council authorizes the Mayor, City Manager and Finance Director of the City of Coon Rapids (the "Pricing Committee") to consider proposals, award the sale of the Bonds and take any other appropriate action with respect to the Bonds, provided that the proposal of the selected purchaser (the "Purchaser") must provide that (a) the true interest cost of the Bonds shall not exceed a rate of 2.25% per annum, (b) the principal amount of the Bonds shall not exceed \$6,950,000, and (c) the final maturity of the Bonds shall be no later than February 1, 2029.

3. The City Council will meet on the first practicable date after acceptance by the Pricing Committee of a proposal from the Purchaser, to ratify such acceptance and take any other appropriate action with respect to the Bonds.